



U.S. Department of Justice

United States Attorney
Southern District of New York

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New York, New York 10278

November 5, 2024

BY ECF

The Honorable Dale E. Ho
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Eric Adams*, 24 Cr. 556 (DEH)

Dear Judge Ho:

The Government respectfully submits this response to the defendant's letter of November 4, 2024 (Dkt. 50), addressing *United States v. Starks*, 24 Cr. 126 (JLR), 2024 WL 4528169 (S.D.N.Y. Oct. 18, 2024). For the reasons set forth below, *Starks* and an additional authority in Adams's letter further support the grand jury's determination that Adams should face trial for bribery.

Contrary to Adams's assertion, *Starks* bears on several contentions raised by the defendant here. *Starks* rejects the argument that an indictment expressly alleging bribes can be reconstrued to allege gratuities. (*Compare* Dkt. 14 at 1, 14 with *Starks*, 2024 WL 4528169 at *3). *Starks* also makes clear that under Second Circuit precedent "'in exchange for' connotes an 'unambiguous agreement to exchange an official public act . . . for financial contributions,'" *Starks*, 2024 WL 4528169 at *3 (quoting *United States v. Benjamin*, 95 F.4th 60, 74 (2d Cir. 2024) (emphasis added by *Starks*)) in contravention of Adams's claim that the Indictment fails to allege such an exchange. (*See, e.g.*, Dkt. 41 at 7). And *Starks* more generally represents another example of the principle that a bribery count which alleges the elements of 18 U.S.C. § 666(a)(1)(B) and alerts the defendant to the nature of his crime cannot be dismissed based on the defendant's attempt to use selected excerpts to de-construct the indictment's factual allegations. (*Compare* Dkt. 41 at 6-9 with *Starks*, 2024 WL 4528169 at *3-*4).

Moreover, Adams's letter further underscores the point that he cannot obtain dismissal of a bribery charge by claiming that the Indictment fails to allege everything that the Government may need to prove at trial. In his first new citation, the court denied a motion to dismiss, rejecting the argument that the charges fell into the narrow category where the indictment must "go beyond the statutory text." *United States v. Ragano*, 24 Cr. 50 (HG), 2024 WL 3302673, at *3 n.6 (E.D.N.Y. July 3, 2024) (cited at Dkt. 50 n.1). Adams's letter thus highlights that his motion did not identify any case dismissing any bribery count on any of the theories he advances. To choose just one more case—which the parties and the Court have already discussed—there was also a motion to dismiss the bribery allegations in *United States v. Skelos*. In *Starks*, Judge Rochon relied on the district court's refusal to dismiss those counts. *See Starks*, 2024 WL 4528169 at *2, *3

Cc: Defense Counsel (by ECF)